

GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Suits – Arbitration – An amount of Rs. 12,99,409/- towards depositing of balance decretal amount to the credit of O.P. No.23/93 on the file of the IV Senior Civil Judge, City Civil Court, Hyderabad in respect of the work relating to formation of Tank across Bojjeravagu near Gangagudem (V), Eturunagaram (M), Warangal District carried out through M/s. Vijaya & Company Engineers & Contractors vide agreement No.208/1977-78, dt: 5.3.1978 – Sanctioned – Orders – Issued.

IRRIGATION & CAD (ARBITRATION) DEPARTMENT

G.O. Ms. No. 4

Dt: 24 -01-2011

Read the following:

The Chief Engineer, Min. Irrgn., Hyd., Lr. No. DEC (Spl.)/M.I-Tribal/AE2/83284/ ARB/ 88, dt.06.02.10, 18.8.2010 and 3.9.2010.

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ORDER:

The Chief Engineer, Minor Irrigation, Hyderabad, in his letters read above has reported that the work relating to formation of Tank across Bojjera Vagu near Gangagudem (V), Eturunagaram (M) Warangal District was entrusted to M/s Vijaya & Co. Engineers & Contractors with a contract value of Rs. 9,39,158/- at 67.25% excess under agreement No.208/77-78 dt: 5.3.1978. But the company has not completed the work within the contract period i.e., 12 months. The work was completed by the Company on 10-3-1985 and the final bill was also paid to the company in March, 1985. The Company has approached for arbitration as certain claims worth of Rs. 6,90,197/- and filed O.S. No. 684/88 before the IV Addl. Senior Civil Judge, City Civil Court, Hyderabad praying to appoint an impartial unattached and independent person as Arbitrator. Pursuant to the order and decree of the Civil Court, Sri Justice C. Sriramulu, Retd. Judge, High Court was appointed as Sole Arbitrator. The Sole Arbitrator in Arbitration case No.6/89 has clearly pointed out the defaults made by the department item wise due to which the work was delayed and consequently interest was accrued. Relying on the judgment of the Supreme Court in C.C Roy Vs. Secretary, Irrigation Department, Government of Orissa (1992 (1) SCC 508), the Arbitrator has passed Award on 09.08.1992 for Rs.3,57,857/- and allowed the claim of interest on awarded items of claim except item No. VI and item No. III at the rate of 10% p.a. from the date the claim became due till the date of reference to the Arbitrator and at the rate of 18% p.a., from the date of reference till the date of actual payment or date of decree whichever is earlier.

2. In this connection, the Chief Engineer, Minor Irrigation has also reported that the Government has filed O.P. No.340/92 before the IV Senior Civil Judge, City Civil Court, Hyderabad against the above award of the Arbitrator and the Court in its common order dt.09.06.1998 has dismissed the said O.P. duly observing that it is due to default of the department, the contractor could not complete the work in time and allowed the O.P. 23/93 filed by the contractor with interest @12% p.a. from the date of the petition till the date of realization. On appeal in CMA No.2369/98 & CRP No.4567/1998 filed by the Department against the above orders of Civil Court dt.09.06.1998, the High Court in its common judgment dt.22.10.2002 while dismissing the appeal has clearly observed that awarding of interest is perfectly justified and that there were laches on the part of the department at every stage of the contract. Therefore, the contractor is entitled to the interest. The SLP (Civil) No.4065-4066/2003 filed against the above orders of the High Court dt.22.10.2002 was also dismissed by the Supreme Court by its order dated: 13.03.2003. Consequent on dismissal of SLP, the Government sanctioned and released for an amount of Rs.9,43,000/- vide G.O Ms. No.65, Irrigation & CAD Department, dt.12.02.2004 and G.O Ms. NO.159, I & CAD Department, dt.25.09.2004 and L O C was released on 21.02.2005.

3. The Chief Engineer, Minor Irrigation has further reported that the balance amount of Rs.6,34,000/- has to be paid to the contractor as on 24.03.2005 and the balance decretal amount arrived at Rs. 12,99,409/- only on account of accrued interest. He has further reported that the latest E.P No.96/2008 filed in the Prl. Senior Civil Judge at Warangal is pending and requested to issue necessary orders for arranging balance decretal amount of Rs.12,99,409/-.

4. Government after careful examination of the matter, hereby accord sanction for an amount of Rs. 12,99,409/- (Rupees Twelve lakhs Ninety nine thousand Four hundred and nine only) towards balance decretal charges to be deposited to the credit of O.P. No.23/93 on the file of the IV Senior Civil Judge, City Civil Court, Hyderabad in respect of the work relating to formation of Tank across Bojjeravagu near Gangagudem (V), Eturunagaram (M), Warangal District entrusted to M/s. Vijaya & Company Engineers & Contractors vide agreement No.208/1977-78, dt: 5.3.1978.

5. The amount sanctioned in para (4) above shall be debitable to the following detailed Head of Account:-

“4702 – COL on M.I. MH – 796 Tribal Areas Sub Plan – GH (11) – Normal State Plan SH (12) – Construction & Restoration of M I Schemes 530 – Major Works 531 Other Expenditure (Charged)”.

6. The Chief Engineer, Minor Irrigation, Hyderabad is directed to deposit the above sanctioned decretal amount in the respective Court and to avoid attachment of Government Property in E. P. No 96/2008 pending before the Prl. Senior Civil Judge Court at Warangal.

7. This order issues with the concurrence of Finance (Expr. P.W.) Department vide their U.O No.28843/976/A1/Expr.P.W./10, dated: 15.11.2010.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

**DR. PRASANTA MAHAPATRA
PRINCIPAL SECRETARY TO GOVERNMENT**

To

The Chief Engineer, Minor Irrigation, Hyderabad.

The Accountant General, A.P., Hyderabad.

The Director of Works Accounts, A.P., Hyderabad.

The District Treasury Officer, Warangal.

The Pay and Accounts Officer, Warangal

The Superintending Engineer, Irrigation Circle, Warangal.

The Executive Engineer, I.D.I.B. Division, Mulugu, Warangal.

Copy to:

The P.S. to Spl. Secretary to C.M.

The P.S. to Minister (MI).

The P.S. to Prl. Secretary to Govt. I & CAD Department.

The Finance (Exp.P.W.) Department

The Law Department.

The Irrigation & CAD (P&B) Department.

The Government Pleader, Warangal.

SF/SC

//Forwarded: By Order//

Section Officer.